Coppersmith Briefs

CARES Act Expands Unemployment Insurance Benefits

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On March 27, 2020, the $2.2 trillion Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) became effective. Title II of the CARES Act, the “Relief for Workers Affected by Coronavirus Act,” expands the number and types of workers who may be eligible for state unemployment benefits and increases the amount of those benefits. Title II also provides a mechanism for supplementing the incomes of workers whose hours have been reduced because of the novel coronavirus.

Expanded Coverage
The CARES Act creates a Pandemic Unemployment Insurance (PUI) program that expands eligibility for unemployment benefits to those workers who are unemployed, partially unemployed, or unable or unavailable to work because of the novel coronavirus. This includes individuals who traditionally are not eligible for state unemployment benefits, like the self-employed or new workers who do not have a sufficient work history under state law.

To take advantage of the expanded PUI coverage, individuals must self-certify that they are otherwise able to work, but are unemployed, or partially unemployed, for one of the following reasons:

- The individual has COVID-19 or is experiencing symptoms of COVID-19 and trying to determine a diagnosis;
- A member of the individual’s household has been diagnosed with COVID-19;
- The individual is caring for a family member or household member who has been diagnosed with COVID-19;
- The individual is the primary caregiver for a child or other person in the household who is unable to attend school or another facility that is closed because of COVID-19;
- The individual can’t reach his or her place of work because of a quarantine or suggested self-quarantine;
- The individual was scheduled to start a job, but that job no longer exists or the individual cannot reach that job because of COVID-19;

- The individual has become the breadwinner or major support for the household because the head of household died because of COVID-19;
- The individual has had to quit his or her job because of COVID-19;
- The individual's place of employment is closed because of COVID-19; or
- The individual meets any additional criteria established by the Secretary of Labor for unemployment assistance.

Importantly, individuals who: (i) can telework, (ii) are receiving paid sick leave or other paid benefits from their employer, or (iii) are receiving paid sick leave under an applicable federal, state, or local law are not entitled to unemployment benefits under the CARES Act while they are teleworking or receiving those paid leave benefits.

Enhanced benefits
The CARES Act also increases the benefits available to covered individuals – both those who qualify for benefits under the pre-existing standard and those who qualify under the expanded PUI coverage – in several ways.

First, during the period from January 27, 2020 to December 31, 2020, all covered individuals are entitled to receive up to 39 weeks of state unemployment benefits as opposed to the traditional 26 weeks. Second, the Act waives the usual one-week waiting period before benefits can begin and provides funding for states to pay those benefits. Finally, it adds an additional $600 per week to the weekly benefit calculated under the state's unemployment program. This $600 supplement is set to expire on July 31, 2020. In a state like Arizona, where the maximum weekly benefit is $240, this supplemental benefit will help a substantial number of workers replace their full weekly pay (or more).

"Short-time compensation" programs
The CARES Act also reimburses those states that have, or create, a "short-time compensation" program for 100% of the monies paid under such a program until December 31, 2020. A "short-time compensation" program is a state-approved program in which employers reduce the number of hours worked by employees (other than seasonal, temporary and intermittent) in lieu of layoffs. Those employees are entitled to a pro rata portion of the unemployment compensation the employee would have received if he or she were unemployed. Employers participating in a "short-time compensation" plan are responsible for paying one-half of the amount paid out to employees through the plan.

The Secretary of Labor is charged with developing and disseminating model legislative language to help states develop programs if they do not already exist.

If you have any questions, please contact Kent Brockelman (kbrockelman@cblawyers.com) and Jill Chasson (jchasson@cblawyer.com)

Kent Brockelman represents employers in a wide variety of employment matters and serves as principal outside employment counsel for a number of employers headquartered or with substantial operations in Arizona. His regular work includes complex employment litigation in state and federal courts and other sorts of employment-related dispute resolution, including arbitrations and administrative proceedings, drafting employment contracts and policies, and daily counseling about employment law issues as they arise in the workplace. He also regularly advises companies about business disputes and serves as lead counsel in related litigation.

Jill Chasson focuses on helping businesses of all sizes in a variety of industries with their employment law needs. She provides practical advice to employers regarding compliance with the many federal and state laws that govern the workplace and regularly provides training for supervisors and human resource professionals. When disputes arise, Jill represents employers before administrative agencies, in arbitration proceedings, and in litigation in federal and state courts regarding a variety of employment-related claims.

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